

NORTH CAROLINA

CABARRUS COUNTY

IN RE:

CORONAVIRUS)
(COVID-19))

IN THE GENERAL COURT OF JUSTICE
FILED SUPERIOR AND DISTRICT
COURT DIVISIONS

2020 MAR 16 A 8:41

20R 147

ADMINISTRATIVE ORDER (II)

CABARRUS CO. C.S.C. 20-5

BY 

The undersigned Senior Resident Superior Court Judge and Chief District Court Judge for Judicial District 19A enter this second administrative order related to coronavirus (COVID-19) issues and to comply with the North Carolina Chief Justice's order issued March 13, 2020 that provides two emergency directives.

INTRODUCTION

On March 10, 2020, Governor Cooper declared a state of emergency and recognized that the "NC DHHS recommends that people at high risk of severe illness from COVID-19 avoid large groups of people as much as possible." Furthermore, the Governor recognized that the "people at high risk of severe illness" are "adults over 65 years, those with underlying health conditions including heart disease, lung disease, or diabetes, or with weakened immune systems."

Also, in response to coronavirus issues, the NC DHHS has recommended that those organizing "Mass Gathering Events," in part: (1) Urge everyone who is sick not to attend, (2) Encourage those who are at high risk, as described above, not attend, (3) Find ways to give people more physical space to limit close contact as much as possible, and (4) Encourage attendees to wash hands frequently.¹

In response to the Governor's declaration, this Court entered an Administrative Order on March 11, 2020 that relieved those over the age of 65, those with underlying health conditions as described above, and those who are ill from serving as jurors or participating in court proceedings as parties, witnesses or counsel. It also strongly encouraged those who were ill not to enter the courthouse.

On March 13, 2020, Chief Justice Cheri Beasley of the North Carolina Supreme Court entered an order to be effective Monday, March 16, 2020, that provided two emergency directives. Emergency Directive 1 provides, in part, that all superior court and district court proceedings should be scheduled or rescheduled for a date no sooner than 30 days from the issuance of the order, unless: (1) the proceedings will be conducted remotely, (2) the proceeding is necessary to preserve the right to due process of law, (3) the proceeding is for the purpose of obtaining emergency relief, or (4) the senior resident superior court judge . . . or chief district court judge determines

¹ On March 14, 2020, the Governor temporarily closed all public schools and banned "mass gatherings" of more than 100 as further defined in Executive Order No. 117.

that the proceeding can be conducted under conditions that protect the health and safety of all participants. Emergency Directive 2 provides that “clerks of superior court shall post a notice at the entrance at every court facility in their county directing that any person who has likely been exposed to COVID-19 should not enter the courthouse.”

This Court has the task of responding to the emerging public health threat created by the coronavirus and to the Governor’s declared state of emergency and the responsibility of implementing the Chief Justice’s order of March 13, 2020 in the context of the North Carolina Constitutional mandate that: “Court shall be open. All courts shall be open; every person for an injury done him in his lands, goods, person, or reputation shall have remedy by due course of law; and right and justice shall be administered without favor, denial, or delay.” Art. I, Sec. 18.

The undersigned judges met with the courthouse leadership team on March 13, 2020 hours following the announcement of the Chief Justice’s order and have sought input from others including the Sheriff of the Cabarrus County, members of the local bar, other judicial officials, and the Cabarrus Health Alliance. The procedures and schedules provided below are this Court’s best efforts maintain the Rule of Law, provide for the proper administration of justice, and protect public health in the context of the difficult challenges presented by the COVID-19 global pandemic. Everyone should expect changes and modifications to these procedures and schedules as conditions change and as we learn from the changes that we are now implementing. As always, if you have suggestions regarding how we can make improvements, please contact either or both of the undersigned judges.

GENERAL PRINCIPLES

The Cabarrus County Courthouse will remain open and maintain regular business hours. However, unless you are required to appear in-person to conduct your business, attorneys and the public are strongly encouraged to use email and telephone to communicate with courthouse personnel.

The Cabarrus County Clerk of Superior Court’s Office will remain open and maintain regular business hours. All statutes of limitations and deadlines are not affected or tolled.

The Magistrate’s Office will be open 24 hours per day, 7 days per week for normal operations except hearing small claims matters while this Order is in effect.

Our Court will abide the mandate of Art. 1, Sec. 18 of the North Carolina Constitution that “Court shall be open.”

Our Court will continue to maintain contact with the Cabarrus Health Alliance to seek guidance regarding when and how “proceeding[s] can be conducted under conditions that protect the health and safety of all participants.”

This Court's first Administrative Order filed on March 11, 2020 regarding the coronavirus (20-4) remains in effect.

The Grand Jury will continue to meet as scheduled. An alternative location within the courthouse will be used for their meetings.

The Jury Assembly Room and the Grand Jury Room will be closed while this Order is in effect. Other large spaces may also be closed to assist in maintaining the building in a clean and healthy condition.

Jury trials in the superior and district court are suspended for the next thirty days. Jurors summoned for March 30, April 6, and April 20 shall be notified by the Clerk that they are excused. Jurors summoned for March 16 have already been excused.

The superior court and district court will eliminate large calendar calls to avoid "mass gathering events."

The superior court and district court both intend to conduct remotely as many proceedings as are possible, appropriate, and authorized by law. This includes initial appearances, considering conditions of release, first appearances, and inpatient commitments. We will make the best use of the limited technology available and are seeking assistance in expanding our technological options.

Attorneys are encouraged to limit in person contact with inmates to the extent possible through the use of technology. The Court is working with the Sheriff, DAC and the Department of Public Safety to expand options for counsel to interact with inmates remotely.

While operating pursuant to the Chief Justice's order, the District Attorney should limit transferring inmates into our local jail unless necessary to preserve the right to due process of law or other good cause.

Soon, under certain expanded conditions, court appointed attorneys may seek interim fees. The Court intends to enter a separate order to address this issue.

Cases involving incarcerated defendants shall have priority over those of non-incarcerated defendants.

All counsel should use their best efforts to cooperate with opposing counsel and seek agreed upon resolutions to disputes before involving the Court.

Any attorney who would like to be temporarily removed for any of Judicial District 19A's court appointed lists for reasons stated in this Court's Administrative Order (20-4) filed on March 11, 2020 or for any other health reason should communicate the same to the local indigent defense committee and the undersigned judges. Additionally, any appointed counsel who would like to be removed from pending matters for the same

reason should also communicate the same to the local indigent defense committee and the undersigned judges.

Any courthouse staff member or law enforcement officer appearing at the courthouse should forward any health concerns related to the operation of the courthouse to their hiring authority, who should report the same to the undersigned. The undersigned are committed to making reasonable accommodations to protect our courthouse users and the public.

Our judicial officials shall remain open to suggestions regarding procedural changes to improve the administration of justice and protect public health.

No one who is sick should enter the courthouse. Counsel should also make this clear to their clients.

Please limit, and encourage your clients to limit, calls to the courthouse as much as possible during the early stage of this process. Attorneys and parties can locate new court dates without contacting the Clerk by searching online here: <https://www.nccourts.gov/court-dates> Also, please encourage your clients charged with infractions and criminal matters to sign up for the court date notification system found here: <https://www.nccourts.gov/news/tag/press-release/court-date-notifications-and-reminders-for-criminal-cases-now-available-via-text-and-email> These services will also be helpful to victims of crime tracking individual cases. Of course, these services would also continue to be helpful if the Chief Justice's order is extended beyond the original thirty days.

All persons are urged to maintain social distancing (approximately six feet away from other people) whenever possible and to wash their hands frequently.

Our Court has complied with Emergency Directive 2 by providing appropriate signage at our courthouse.

This Order is entered with the understanding that the Chief Justice's order "may be extended in whole or in part for additional 30-day periods if necessary." If the Chief Justice's order is extended, there will future modifications of this Order.

SUPERIOR COURT

The Chief Justice's Order is effective March 16 and it currently affects the sessions of court listed below.

In each session, any jurors summoned are excused. There will be no jury trials conducted during any of these sessions. There will be no calendar calls in any of these sessions. Lawyers need not appear at any of the sessions unless required by this Order or otherwise directed by the Court.

All parties in civil cases currently scheduled in the sessions listed below are excused unless otherwise notified by the Court. Our TCC, Lindsay Daniels, will reschedule all civil cases after consultation with counsel/parties. Parties may, by agreement, request the Court to address non-jury matters regularly scheduled during March 16 and April 6 sessions by communicating the same to Ms. Daniels. Conducting civil hearings will be considered by the Court on a case-by-case basis based upon the criteria set forth herein and the Chief Justice's order. The parties are strongly encouraged to consider appearing remotely by agreement. Hearings involving live testimony, however, are disfavored. Hearings can be scheduled on a time certain basis with the assistance of Ms. Daniels.

All Superior Court mediations scheduled to be addressed in the courthouse while this Order is in effect must be rescheduled and courthouse space shall not be used for this purpose during this period.

All defendants in criminal cases will be rescheduled by the District Attorney unless conducting a hearing in the matter is necessary to preserve the right to due process of law. The District Attorney should schedule First Appearances in the usual manner for incarcerated defendants. The Court intends to conduct First Appearances by video in Courtroom 1. Also, the Court is open to addressing any agreed upon criminal matters that can be addressed consistent with the criteria listed above. Counsel should work together along with Ms. Daniels to schedule matters during the week on a time certain basis. Resolving incarcerated inmates' matters is a top priority. As all sessions are mixed criminal/civil matters, the Court is open to scheduling criminal matters during the weeks of March 16 and April 6 if required by due process concerns or by agreement. The scheduling of any matters, however, are subject to approval by the Senior Resident Superior Court Judge. Any dispute regarding whether a matter involves a "due process of law" issue should be submitted to the Senior Resident Superior Court Judge in writing.

As for additional instructions regarding individual affected sessions, please see below:

- A. March 16 – Civil Session. There will be no court on Monday. The criminal cases scheduled for Wednesday will proceed for incarcerated defendants and for matters involving satellite-based monitoring. Cases involving non-incarcerated defendants will be rescheduled unless all parties agree to proceed, and no one involved in the hearing is ill. If someone fails to appear for any of the cases set for Wednesday, the case will be rescheduled – no OFAs will issue. Any of the civil matters scheduled for the week can be heard on Tuesday or Thursday if agreed upon by the parties on a time certain basis as provided above. Scheduling issues should be addressed with Ms. Daniels by email with all parties copied. The Court will do its best to accommodate the parties' schedule provided it can be done consistent with the terms herein.

- B. March 23 and March 30 – Two-Week Criminal Session. There will be no jury, no calendar call, and matters will be addressed as provided above. The grand jury will meet as scheduled on March 23. The Court will conduct First Appearance by video.
- C. April 6 – Civil Session. There will be no jury trial, no calendar call, and matters will be addressed as provided above.
- D. April 13 and April ~~20~~ – Two-Week Criminal Session. There will be no calendar call the week of April 13. The week of April 30 is hereby converted into a criminal administrative plea week and the jury shall be excused. There will be no jury trials the week of April ~~20~~. Cases should be calendared for the week of April ~~20~~ as if it were a one-week session as that week is outside of the 30-day effective period of the Chief Justice's order. The grand jury will meet as scheduled on April 13. The Court will conduct First Appearances by video.

Any issues involving emergency relief (e.g. temporary restraining order) should be directed to the attention of Ms. Daniels and the same will be scheduled if the same can be done consistent with this order.

All DNA collections scheduled in the Grand Jury Room must be rescheduled while this Order is in effect.

The preferred method of contacting Ms. Daniels is by email at Lindsay.A.Daniels@nccourts.org.

The Senior Resident Superior Court Judge intends to be present in the courthouse during regular business hours and will be available as needed.

DISTRICT COURT

In accordance with the Chief Justice's Order on March 13, 2020 and the Governor's declared State of Emergency, District Court scheduling will be modified as follows from March 16, 2020 through April 17, 2020:

Mondays:

1. First Appearance Court will be held at 9:00am in Courtroom #6. These will be video advisements only. This will include inmates held for failure to pay child support and child support contempt who must be advised about their rights to counsel. **On a limited basis** following First Appearances, defense attorneys may offer pleas for individuals being held in the Cabarrus County Jail. In addition, the Court will accept pleas that may be entered with a **signed waiver** of the client's presence. **Jail cases will have priority.** These pleas must be arranged with the District Attorney's office in advance before court begins.
2. Involuntary commitment hearings will be held by telephone, with the Judge in his or her office and personnel from the hospital and the guardian attorney in their

respective offices. A recording will be obtained in the judge's office and all paperwork will be transferred by courier or electronic means.

3. On March 23 and April 6, there will be DHS CS for uncontested matters only. The public is not required to attend, nor will lawyers be required to attend. **No contested child support matters will be heard.** All contested matters or matters requiring witnesses from the public or attorneys will be rescheduled after April 17, 2020 by the DHS personnel.

Tuesdays:

1. Juvenile Delinquency Court will be held at 9:30am in Courtroom #3. **This Court will only be for reviewing time sensitive matters such as secure custody orders or First Appearances.** Any other cases will be continued. DJJ will consult with the District Attorney's office to reschedule and notify the clerk's office and defense attorney of the new dates proposed.
2. Probation Court will be held each Tuesday at 2:00pm. **The priority will be hearings on individuals who are being held in the Cabarrus County Jail.** Probation Officers should reschedule remaining probation cases for after April 17, notifying the probationer, district attorney's office and clerk's office of the new court date.

Wednesdays:

1. First Appearance Court (video) will be added at 9:00am in Courtroom #3. No pleas will be accepted on Wednesdays.
2. Domestic Violence Court will proceed as usual at 9:30 a.m. in Courtroom #3. Requests for *ex parte* restraining orders will proceed as usual every day that the courthouse is open for business. Individuals may apply in the civil Clerk's office.

Thursdays:

1. On the Thursday March 9, First Appearance videos will be at 9:00 a.m. in Courtroom #3. Pleas will be accepted as noted above.
2. Involuntary Commitment Hearings will be by phone as described above.
3. Juvenile Abuse/Neglect/Dependency Court will be held on 3/26 and 4/9. DHS will get in touch with all attorneys and parties to continue any hearings that can be postponed by agreement to prevent as many people as possible from having to attend court. Attorneys may be asked to waive statutory deadlines if their clients agree. Please be as cooperative as possible. DHS will reschedule these cases after conferring with the attorneys and parties involved. In addition, the DHS will reschedule Responsible Individual List cases with the individual respondents and attorneys after communication with the Judges' office. Seven-day hearings will be scheduled by DHS as needed by contacting Ms. Guza for a hearing time assignment.

Fridays:

1. Except for Friday, April 10, First Appearance Court will be held at 9:00am in Courtroom #3. Pleas will be accepted as noted above for jail cases and waiver cases only.

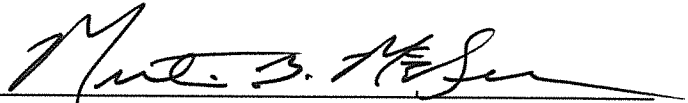
Other items of note:

- **CONTACT.** The preferred method of contact for the district court judges' office is via email.
- **JURY SESSION.** The district court jury session scheduled for March 16 is cancelled. Jurors have been excused. All cases will be re-calendared by Ms. Hoskins.
- **SIGNATURES.** During this period, each district court judge may sign documents or orders with another judge's permission. Any documents for signature shall be left in the box outside the district court judges' office or in the judge's mailbox in the courthouse.
- **EMERGENCY JUDGE:** On our administrative calendars each day a judge's name is highlighted in bold and italics. That is the assigned Emergency Judge for the day. You should contact Kelly Guza in our office for scheduling time to meet with (by phone or in person) the ER on-call judge for matters involving *ex parte* custody orders, Juvenile Detention hearings, and criminal court bond hearings. The Judge will also hear *ex parte* DVPOS and 50C Restraining orders filed during the day. As many of these hearings will be conducted by phone or other electronic means as possible.
- **DISTRICT CRIMINAL RESCHEDULE:** The District Court Criminal Clerk's office will be rescheduling all the criminal matters by contacting the attorneys, defendants and witnesses for District Court during this time period.
- **DISTRICT TRAFFIC COURT:** Traffic cases will be reassigned to different traffic dates. If attorneys would like to make an appointment or speak with the DA's office about resolving traffic cases, they should first call the DA's office to ascertain what staff is available, and then make an appointment to resolve cases in bulk if possible. Self-represented parties will be rescheduled or may use online access to resolve tickets if possible.
- **DIVORCE BY CLERK:** Divorce by Clerk will remain available during this time to represented and self-represented parties.
- **DISTRICT CIVIL RESCHEDULE:** The District Civil calendars will be rescheduled and addressed one day at a time by Patty Hoskins (Trial Court Coordinator) and Assistant Clerk Elizabeth Thompson. **No calendar notices for previously scheduled cases during the period of emergency will be honored unless they are approved by Ms. Hoskins or Ms. Thompson. Please do not attempt to reschedule your case yourself.** Be patient; we will work as quickly as possible on this project.
- **ARBITRATION:** Civil District Arbitrations will be rescheduled by Ms. Hoskins in the Judges' office on a day-by-day basis.

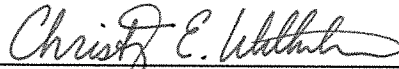
- **SMALL CLAIMS:** Small Claims Court will be cancelled until April 17. Summary Ejectments deadlines will be waived due to the State of the Emergency. The clerk's office will reschedule the small claims cases after April 17.
- **CONFLICT RESOLUTION:** Teen Court, District Criminal Mediation, and Truancy/Parenting programs are suspended if conducted in person. If staff is able to conduct the programs online, by electronic means or by telephone they will attempt to do so. Conflict resolution will reschedule as they are able to do so.
- **CHILD CUSTODY MEDIATION:** Child Custody Mediation Orientation will be transferred to an online format. If parties are unable to access online mediation orientation their matters will be rescheduled after April 17. Similarly, mediation sessions will be rescheduled or conducted online or by electronic means if available through April 17.

IT IS SO ORDERED.

This the 16th day of March 2020.



Martin B. McGee
Senior Resident Superior Court Judge



Christy E. Wilhelm
Chief District Court Judge